holidays fall due on the succeeding instead of the preceding day. The most important step so far taken, however, has been the appointment, in twenty-seven States, of commissioners on uniformity of laws. At the national conference of these commissioners in 1895 the committee on commercial law was instructed to prepare a codification of the law relating to negotiable paper. The draft prepared under the direction of this committee, and finally adopted by the commissioners in 1896, was modelled somewhat after the English Bills of Exchange Act, embodied suggestions by prominent lawyers and judges in England and the United States, and usually followed in cases of conflict the decisions of the Supreme Court of the United States. In this form the Negotiable Instruments Law has been enacted by the legislatures of Connecticut, Colorado, Florida, and New York; and special efforts, it is said, will be made by the commissioners to have the statute passed by the legislatures of many other States at their next session.

The Negotiable Instruments Law went into effect in New York on October 1 of the present year, and has modified the law of that State in several particulars. Perhaps the most important change is the abolition of the rule of *Coddington* v. *Bay*, 5 Johnson Chanc. Rep. 54, which has been the law in New York ever since it was laid down by Chancellor Kent, and the substitution of the doctrine of *Swift* v. *Tyson*, 16 Peters, 1. Hereafter in New York an antecedent indebtedness will be regarded as a valuable consideration, and will protect the holder against latent equities. The law as to notes payable on demand has also been altered. Hitherto a demand note in New York has been a continuing security, on which indorsers remain liable until an actual demand, the holder not being chargeable with neglect to make demand within any particular time. According to the statute the holder must make demand within a reasonable time.

It is believed that, all things considered, the Negotiable Instruments Law is an admirable piece of legislation, and would result, if generally adopted, in greatly facilitating commercial transactions. Moreover, this statute is but a test measure, and if the commissioners are successful in securing its enactment in most of the States, they purpose making still further efforts in the direction of uniformity in our laws.

LEGAL CRUELTY — RUSSELL CASE. — The case of *Earl Russell* v. *The Countess Russell*, recently decided in the House of Lords (London Times, July 17th, 1897), fixes the law of England upon the vexed question of what constitutes cruelty as a ground for judicial separation *a mensa et thoro*. A decree of separation had been granted to Earl Russell, the jury having found cruelty in the charges maliciously made and repeated by his wife, accusing him of unnatural crime. The Court of Appeals reversed the decree, holding that there was no evidence of legal cruelty to go before the jury; this decision was finally affirmed in the House of Lords by a vote of five to four, the Lord Chancellor dissenting.

The ground of the decision was that the infliction of mental suffering cannot constitute cruelty in the legal sense unless it endangers the life or health of the person injured. This was undoubtedly the definition of *sævitia* known to the canon law and handed down by the ecclesiastical courts. *Holmes* v. *Holmes*, 2 Lee, Eccl. Rep. 116. If the question must be considered merely on an historical basis, the decision of the House of Lords is correct; most of the cases in this country agree with it. *Marks*

v. *Marks*, 64 N. W. Rep. (Minn.) 561. In English decisions throughout this century, however, there has been an increasing number of dicta questioning the accepted rule, which Lord Herschell in his majority opinion fails to explain adequately. *Durant* v. *Durant*, 1 Haggard, Eccl. Rep. 733; *Paterson* v. *Paterson*, 3 H. of L. Cas. 308. Marriage and the relations arising from it form perhaps the one class of cases where the historical argument is of the least value; it must be remembered that this argument carried to its full length would require us to consider a married woman in the light of a slave.

History is not sufficient for a solution of the present difficulty. No more to the purpose are the general considerations borrowed from the law of torts, where mental injury alone cannot form a ground for recovery of damages. Actions of tort, with few exceptions, are based upon material injury to the plaintiff; the present action, on the other hand, deals with injury to the complex and delicate relations arising from the status of husband and wife; and it seems antiquated and superficial to hold that this status may not be violated without endangering life or health. It would be difficult to dispute the propriety of the position taken by the Supreme Court of New York in the case of *Lutz* v. *Lutz*, 9 N. Y. Supp. 858, that persistent malicious accusations made by a husband against his wife's chastity in the presence of her children was an exquisite refinement of cruelty worse than physical torture. The majority of the House of Lords meet this argument by saying that such treatment would injure the wife's health, and would thus come within their definition. But it is not extravagant to contend that this treatment is cruelty in itself, without regard to its consequences; and this doctrine, which is maintained by the minority in the present case, may well become the law in jurisdictions where the question is still *res integra*.

Evidence of other Crimes than the one Charged. — The case of *People* v. *Zucker*, 46 N. Y. Supp. 766, recently decided by the Supreme Court of New York, suggests, if it does not actually raise, an interesting and difficult point in the law of evidence. At the trial of the defendant for arson, consisting in the burning of a building in New York, the judge allowed the government, for the purpose of corroborating its principal witness, to put in evidence tending to prove that the defendant was guilty of previously wilfully setting fire to a building in Newark, N. J. The Supreme Court, by a vote of three to two, held that this was not reversible error. The material facts were as follows. The furniture in the New York building had been removed to that in Newark, the fires took place within three days of each other, and the motive in both cases was to defraud the insurance companies. Relying on these facts the majority held that the two crimes were part of one and the same scheme, each being the supplement of the other, and neither being complete alone. The minority, in the able opinion of Ingraham, J., deny that the two crimes were connected otherwise than as crimes of a similar nature committed for a similar purpose.

The decision of the majority, on their interpretation of the facts, would seem to be sound. Evidence of a previous crime connected with the actual commission of the one charged, in the sense of making the latter easier, safer, or more effective, was admitted in *Commonwealth* v. *Robinson*, 146 Mass. 571, and the principle is recognized in *People* v. *Sharp*, 107